

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Merle Miller,

Case No. 3:05CV7454

Plaintiff

v.

ORDER

Perry Corporation,

Defendant

This is an employment discrimination case in which the plaintiff has filed a motion for leave to certify questions to the Ohio Supreme Court. The motion is, apparently, a response to a Rule 11 notice from the defendant.

The proposed order submitted with the motion does not conform to the requirements of Rule XVIII of the Ohio Supreme Court Rules of Practice. The motion to certify shall, accordingly, be denied.

In any event, it does not presently appear that certification is necessary. In my view, the state of the law can be deemed “settled” even though the Supreme Court has not spoken on the particular legal issue in question. If jurists at lower levels have not disagreed on a proposition, there is little reason for the Supreme Court to exercise its discretionary jurisdiction to consider the issue.

The law may be, as plaintiff suggests, unsettled. But his motion does not make it appear so, or at least sufficiently so to justify certification of the questions he proposes.

It is, therefore,

ORDERED THAT plaintiff's motion to certify be, and the same hereby is overruled.

So ordered.

s/James G. Carr
James G. Carr
Chief Judge